



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB5443

Introduced 2/5/2010, by Rep. Dennis M. Reboletti

SYNOPSIS AS INTRODUCED:

725 ILCS 5/115-6

from Ch. 38, par. 115-6

725 ILCS 5/115-6.1 new

Amends the Code of Criminal Procedure of 1963. Provides that if the defendant discloses that he or she may rely upon the testimony of a mental health expert in mitigation during a death penalty hearing, the Court shall, on motion of the State, order the defendant to submit to examination by at least one clinical psychologist or psychiatrist, to be named by the prosecuting attorney. Provides that all mental health interviews of the defendant shall be visually electronically recorded in their entirety. Provides that the visual electronic recordings of the defendant shall be made available to the defense. Provides that all interviews of defendants conducted by mental health professionals for the purpose of rendering or supporting an expert opinion or diagnosis to be offered in a criminal prosecution shall be visually electronically recorded in their entirety. Provides that the trial court, consistent with Illinois Supreme Court Rules and Illinois law, shall issue protective orders limiting the distribution, use, and retention of all visual electronic recordings. Effective immediately.

LRB096 18094 RLC 33469 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Code of Criminal Procedure of 1963 is
5 amended by changing Section 115-6 and by adding Section 115-6.1
6 as follows:

7 (725 ILCS 5/115-6) (from Ch. 38, par. 115-6)

8 Sec. 115-6. Appointment of Psychiatrist or Clinical
9 Psychologist. If the defendant has given notice that he may
10 rely upon the defense of insanity as defined in Section 6-2 of
11 the Criminal Code of 1961 or the defendant indicates that he
12 intends to plead guilty but mentally ill or the defense of
13 intoxicated or drugged condition as defined in Section 6-3 of
14 the Criminal Code of 1961 or if the defendant discloses that he
15 or she may rely upon the testimony of a mental health expert in
16 mitigation during a death penalty hearing pursuant to Section
17 9-1 of the Criminal Code of 1961 or if the facts and
18 circumstances of the case justify a reasonable belief that the
19 aforesaid defenses may be raised, the Court shall, on motion of
20 the State, order the defendant to submit to examination by at
21 least one clinical psychologist or psychiatrist, to be named by
22 the prosecuting attorney. The Court shall also order the
23 defendant to submit to an examination by one neurologist, one

1 clinical psychologist and one electroencephalographer to be
2 named by the prosecuting attorney if the State asks for one or
3 more of such additional examinations. The Court may order
4 additional examinations if the Court finds that additional
5 examinations by additional experts will be of substantial value
6 in the determination of issues of insanity or drugged
7 conditions. All mental health interviews of the defendant shall
8 be visually electronically recorded in their entirety. The
9 visual electronic recordings of the defendant and the ~~The~~
10 reports of such experts shall be made available to the defense.
11 Any statements made by defendant to such experts shall not be
12 admissible against the defendant unless he raises the defense
13 of insanity or the defense of drugged condition, in which case
14 they shall be admissible only on the issue of whether he was
15 insane or drugged. The refusal of the defendant to cooperate in
16 such examinations shall not automatically preclude the raising
17 of the aforesaid defenses but shall preclude the defendant from
18 offering expert evidence or testimony tending to support such
19 defenses if the expert evidence or testimony is based upon the
20 expert's examination of the defendant. If the Court, after a
21 hearing, determines to its satisfaction that the defendant's
22 refusal to cooperate was unreasonable it may, in its sound
23 discretion, bar any or all evidence upon the defense asserted.

24 (Source: P.A. 82-553.)

1 Sec. 115-6.1. Visual electronic recordings of defendant's
2 mental health interviews.

3 (a) All interviews of defendants conducted by mental health
4 professionals for the purpose of rendering or supporting an
5 expert opinion or diagnosis to be offered in a criminal
6 prosecution shall be visually electronically recorded in their
7 entirety.

8 (b) The trial court, consistent with Illinois Supreme Court
9 Rules and Illinois law, shall issue protective orders limiting
10 the distribution, use, and retention of all visual electronic
11 recordings.

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.